

COPY

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU: TRIAL TERM: PART 7

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In the Matter of the Application of
DOMINIC MACEDO, ROBERT DONNO, MARK
SAUVIGNE, and MARLENE LOBATO,
Objectors,

INDEX NO.
003124/2016

Petitioners,

-V-

PHILIP M. PIDOT, Candidate, and
GREGORY PETERSON, PETER KOSINSKI,
DOUGLAS KELLNER and ANDREW SPANO,
Commissioners Constituting the
New York State Board of Elections,

Respondents.

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In the Matter of the Application of

INDEX NO.
3448/16

PHILIP M. PIDOT,
Candidate,

Petitioner,

-V-

DOMINIC J. MACEDO, ROBERT DONNO,
MARK S. SAUVIGNE and MARLENE LOBATO,
Objectors, and THE NEW YORK STATE
BOARD OF ELECTIONS,

Respondents.

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Nassau Supreme Court
100 Supreme Court Drive
Mineola, New York 11501
June 21, 2016

B E F O R E:

THE HONORABLE ARTHUR M. DIAMOND,
Justice of the Supreme Court.

(APPEARANCES ARE LISTED ON THE FOLLOWING PAGE.)

AVS

A P P E A R A N C E S:

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MARLENE LOBATO
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BY:

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ALSO PRESENT:

Brendan Quinn

E. O'Brien Murray

Marco Silva, Esq.

(Present during afternoon session)

(Present during afternoon session)

ANDREA V. SLOBODOW, CSR

OFFICIAL COURT REPORTER

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Proceedings

1 primary.

2 In essence, this Court can't order a primary
3 that complies with the New York State Election Law.
4 It can't order a primary which complies with Judge
5 Sharpe's order. It can't order a primary that
6 complies with the federal MOVE Act. That is what
7 Mr. Pidot is asking you to do. He's asking you to
8 break the law. I am confident that you won't break
9 the law, that you won't issue an order that isn't
10 consistent with the law or attempts to reverse a
11 Federal District Judge's order, and that you won't
12 disenfranchise those soldiers and sailors.

13 THE COURT: What do you think was the
14 drop-dead date for --

15 MR. CIAMPOLI: It was in May. I have notes
16 on my desk that reflect the date in May -- and by the
17 way, it was around the time, within a week, I believe,
18 of Judge Adams' order.

19 THE COURT: So anything that occurred after
20 that would have been -- resulted in an illegal
21 election if it was allowed to go forward?

22 MR. CIAMPOLI: At the very least, it would
23 require somebody to go to Judge Sharpe and say: We
24 need an exception from your order. Right now, what
25 they're asking you to do is to have the City of New

Proceedings

1 York, the County of Nassau, and the County of Suffolk
2 hold a primary which would subject them to contempt in
3 Federal District Court.

4 THE COURT: So how come you didn't make the
5 motion a month ago?

6 MR. CIAMPOLI: It hadn't matured. That's
7 the reason why.

8 THE COURT: Well, I just heard you said the
9 drop dead date, where you couldn't have a legal
10 election, was around the time that Adams had his
11 hearing.

12 MR. CIAMPOLI: So --

13 THE COURT: That was around May 6 or 7th, I
14 believe.

15 MR. CIAMPOLI: But he dismissed. He
16 dismissed on the 11th.

17 THE COURT: Right.

18 MR. CIAMPOLI: Okay? I believe there was
19 still time to squeeze in a legal election. Certainly,
20 the publication could have been done. And I believe
21 you still would have had 45 days --

22 THE COURT: And how about when you went to
23 the Appellate Division?

24 MR. CIAMPOLI: I told the Appellate Division
25 it was impossible to do this and they didn't really --

Proceedings

1 during argument, and they didn't really listen.

2 THE COURT: Okay.

3 MR. CIAMPOLI: I think that, frankly, as I
4 told you at the beginning of my argument, Justice
5 Adams had a number of motions to dismiss. He ruled on
6 one, didn't have to go to the others because you can't
7 multi-dismiss a case. You can dismiss a case; once
8 it's dismissed, it's dismissed.

9 THE COURT: Okay.

10 So Mr. Sweeney, I assume that you don't have
11 written opposition?

12 MR. SWEENEY: I'm sorry?

13 THE COURT: I assume you don't have written
14 opposition?

15 MR. SWEENEY: I do not, your Honor. We were
16 just notified.

17 MR. CIAMPOLI: And your Honor, I have a copy
18 of the Federal Court order, if the Court needs it.

19 THE COURT: Okay, Mr. Sweeney. Do you want
20 to be heard?

21 MR. SWEENEY: I certainly do, your Honor.
22 Obviously -- well, I oppose this mission to dismiss.
23 First, on the matter of the traverse hearing, that
24 matter was settled last week in the Appellate
25 Division. I think the record will reflect the

1 MR. SWEENEY: That he use --

2 THE COURT: Don't do that in this courtroom,
3 please.

4 MR. SWEENEY: Which caused this delay in the
5 first instance, your Honor.

6 THE COURT: I don't know what caused the
7 delay. The time that you spent, both of you, whoever
8 brought the appeal was an extraordinary amount of time
9 that went by before the appeal was perfected.

10 Let me tell you this, I'm not going to issue
11 any stay of any elections. That I won't do. In other
12 words, your remedy would be the same as anybody else who
13 gets an order here. You would take that, you would take
14 my order to the Appellate Division or the federal court
15 and apply for a stay from them. That certainly makes
16 sense to me, but I am not going to issue a stay after I
17 do my decision.

18 One second.

19 (Whereupon, a brief pause was taken in the
20 proceedings.)

21 THE COURT: Mr. Quail is still there. He sent
22 me his direct line, but if you -- so I guess then,
23 Mr. Sweeney, I will give you the option of coming back
24 tomorrow or we can do it now with the Board of Elections
25 on the phone.